

## HCR04-1005 & HB04-1373

### Comparison of Current and Proposed Law

Subject	Current Law	Proposed Change (Reengrossed versions of HCR04-1005 & HB04-1373)
<b>Merit Principle</b> Art. XII, Sec. 13 (1), pp.5-6*	<i>Constitution</i> ✓ Requires appointments and promotions to be made according to "merit and fitness"; ✓ Prohibits consideration of race, creed, or color or political affiliation.	<i>Constitution</i> ✓ Continues to require appointments and promotions to be made according to "merit"; ✓ Adds sex/gender as a prohibited type of discrimination.
<b>Selection</b> Art. XII, Sec. 13 (1), pp.5-6; Sec. 13 (5), p.7	<i>Constitution</i> ✓ Requires "competitive tests of competence" to ascertain merit and fitness; ✓ Requires the appointment of one of the 3 persons ranking highest on the eligible list for a position (the "rule of 3"). <i>Statute</i> ✓ Requires appointments and promotions to be based on job-related knowledge, skills, abilities, competencies, behaviors, and quality of performance as demonstrated by "fair and open competitive examinations."	<i>Constitution</i> ✓ Replaces "competitive testing" with a "comparative assessment of qualifications"; ✓ Replaces the "rule of three" with "rule of six". <i>Statute</i> ✓ Requires eligible list to be determined through "fair, open, and objective comparative assessment processes."
<b>Residency</b> Art. XII, Sec. 13 (6), p.7	<i>Constitution</i> ✓ Requires appointees to reside in the state; ✓ Allows applicants to reside outside Colorado if the position is found by the state personnel board to require special education or training or special professional or technical qualification and cannot be readily filled by a resident.	<i>Constitution</i> ✓ Eliminates residency requirement for applicants; ✓ Retains constitutional presumption of residency for employees with exemptions authorized by the General Assembly. <i>Statute</i> ✓ Requires certified employees to be residents unless the State Personnel Director determines that it would be impractical or would otherwise prevent accomplishment of the work.

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\*Unless otherwise specified, all references to section and page numbers are to provisions in HCR04-1005.

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<b>Exemptions</b> Art. XII, Sec. 13 (2), p.6; Art. IV, Sec. 22, p.15 (conforming); Art. V, Sec. 49 (3), p.15 (state auditor employees)	<i>Constitution</i> ✓ Exempts members of the PUC, industrial commission of Colorado, state land board, Colorado tax commission, state parole board, and state personnel board, and members of any board or commission serving without compensation; employees in offices of governor and lieutenant governor whose duties and functions confined to office; appointees to fill vacant elective offices; 1 deputy of each elective officer; officers specified in the constitution; faculty members and administrators of educational institutions and departments; assistant attorneys general; members, officers, and employees of the legislative and judicial departments. ✓ Requires all but 3 employees of the state auditor to be included in the state personnel system	<i>Constitution</i> ✓ Exempts senior managers appointed through an annual contract limited to not more than ½%** of total number of certified workforce; ✓ Exempts key department staff limited to not more than two persons whose duties are concerned only with the administration of the executive director's office; ✓ Allows new state auditor staff to be hired outside state personnel system. <i>Statute</i> ✓ Authorizes exemptions for officers responsible for directly controlling significant segments of principal departments through subordinate managers, not to exceed 1 exemption per 50 authorized certified positions in a department, but no more than 15 exempt officers and employees per department; ✓ Specifies that the chief of Colorado State Patrol is an "officer" and requires the chief to continue to meet current qualifications.
<b>Temporary Employment</b> Art. XII, Sec. 13 (9), p.8	<i>Constitution</i> ✓ Allows temporary appointments not to exceed 6 months; ✓ Prohibits any other temporary or emergency employment <i>Statute</i> ✓ Allows no longer than 6-month temporary appointments while an eligible list is established within that period, with approval of State Personnel Director; ✓ Allows temporary appointments without prior approval in case of emergency, but requires approval within 15 days.	<i>Constitution</i> ✓ Extends temporary appointments from 6 months to 9 months. <i>Statute</i> ✓ Limits temporary appointments to not more than 270 consecutive calendar days in a 12-month period and requires eligible list to be established "as soon as possible"; ✓ Requires State Personnel Director to adopt rules for permanent, part-time employees for services that are annually recurring. ✓ Repeals limitation on emergency temporary appointments.

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\*\* Shading denotes House amendments.

Subject	Current Law	Proposed Change (Reengrossed versions of HCR04-1005 & HB04-1373)
<b>Governance &amp; Rulemaking Authority</b> Art. XII, Sec. 14 (3), pp.10-11 (personnel board); Sec. 14 (4), p.11 (personnel director)	<i>Constitution</i> ✓ State Personnel Board is responsible for adopting rules concerning standardization of positions, determination of grades of positions, standards of efficient & competent service, the conduct of competitive examinations, grievance procedures, appeals, and the conduct of hearings. ✓ State Personnel Director responsible for "administration of personnel system."	<i>Constitution</i> ✓ State Personnel Board is [REDACTED] for rules concerning grievance procedures, discipline, separations, appeals, hearings and other matters as provided by law; ✓ State Personnel Director is responsible for system administration, appointments and promotions, standardization of positions, compensation, standards of performance, and other matters as provided by law. <i>Statute</i> ✓ State Personnel Board is authorized to adopt rules regarding grievances, discipline, hearings, resignations, conflicts of interest and voluntary separation agreements; ✓ State Personnel Director is required to adopt all rules pursuant to APA.
<b>Discipline &amp; Dispute Resolution</b> Art. XII, Sec. 13 (8), p.8	<i>Constitution</i> ✓ Certified employees subject to dismissal, suspension, or other discipline upon written findings of failure to comply with standards of efficient service or competence, for willful misconduct, willful failure or inability to perform, or final conviction of felony or offense involving moral turpitude. <i>Statute</i> ✓ All certified employees have retention rights when separated due to lack of work, lack of funds, or reorganization.	<i>Constitution</i> ✓ Allows certified employees to be disciplined upon written findings of failure to perform, willful misconduct, or final conviction of felony or other offense. <i>Statute</i> ✓ Requires appointing authority or designee to meet with employee prior to making final decision to discipline & allows appointing authority to refer a disciplinary matter to another appointing authority to ensure fair determination; ✓ Retention rights ("bumping") vest after 5 years of state service, but employees with fewer than 5 years have retention rights only to vacant positions and positions occupied by probationary employees.
<b>Contracting</b> HB04-1373, Section 20 (pp.37-38), Sections 32-38 (pp.45-53), & Sections 40-44 (pp.54-56 - conforming)	<i>Statute</i> ✓ Allows contracts for personal services that do not impact the state personnel system (e.g., when the functions contracted are: (1) performed by exempt employees; (2) for an existing state program & have never been performed by state employees; (3) for a new state program for which the General Assembly has authorized performance by independent contractors; (4) not available & cannot be performed by state employees; or (5) incidental to the purchase or lease of property; etc.) ✓ Allows contracts that impact the state personnel system in limited circumstances.	<i>Statute</i> ✓ Prohibits any contract that causes any certified employee to lose pay, status or tenure; ✓ Allows personal services contracts if accountability can be maintained, and if they provide actual cost savings or improved quality resulting in best value; ✓ Requires departments to give notice to employees, the State Personnel Director and the public before eliminating vacant classified positions; ✓ Requires departments to promptly give notice if contract is executed; ✓ Allows an employee to request a review by the State Personnel Director and to appeal the decision to district court.

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<b>Veterans' Preference</b> Art. XII, Sec. 15, pp.11-15	<i>Constitution</i> ✓ Requires the addition of preference points to the passing grade of candidates for positions in the state personnel system if the candidate is a veteran.	<i>Constitution</i> ✓ Technical changes to replace “points” with “percentage points” to allow for comparative assessments and nonnumerical assessments of qualifications; ✓ Where a non-numeric selection process is used, requires each qualified veteran to be interviewed for the position.